

SPECIAL COUNCIL MEETING

AUGUST 29, 2012

The Special Meeting of the Council of the County of Kaua'i, was called to order by the Council Chair at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, August 29, 2012 at 8:35 a.m., after which the following members answered the call of the roll:

Honorable Tim Bynum
Honorable Dickie Chang
Honorable KipuKai Kualī'i
Honorable Nadine K. Nakamura
Honorable Mel Rapozo
Honorable JoAnn A. Yukimura
Honorable Jay Furfaro, Council Chair

APPROVAL OF AGENDA.

Mr. Bynum moved for approval of the agenda as circulated, seconded by Ms. Yukimura, and unanimously carried.

Chair Furfaro: This is a meeting that is called to order as a Special Order of the Day as it ended in a 3:3 tie at our last meeting and it became the primary item of the first part of business today.

SPECIAL ORDER OF THE DAY:

C 2012-348 Communication (08/15/2012) from Councilmember Kualī'i, requesting Council approval to include the following proposals in the 2013 Hawai'i State Association of Counties Legislative Package:

1. A Bill For An Act Relating To Energy Resources
(pursuant to Council Rule No. 5(e), Council Absence, Tie Vote)

Mr. Bynum moved to approve C 2012-348, seconded by Mr. Kualī'i.

Chair Furfaro: I would like to at this time give an opportunity for any Councilmembers to speak and then I will open to public testimony.

Ms. Yukimura: I do have a PowerPoint. I just want to make sure that people get to speak, so I can do it either before or after people speak.

Chair Furfaro: Do you mind if I ask you to do your PowerPoint first so the audience can see it as well?

Ms. Yukimura: Alright, I will do it. It is not a long one. I also want to say that we are developing some clarifying amendments to make it clear that it is the owner of the house that will get to ask for a variance.

Chair Furfaro: After your PowerPoint, would you like them... because we would like to circulate any amendments that are being proposed, would we take a break after your PowerPoint and you can work on the amendments?

Ms. Yukimura: It is being worked on right now. I think there are people who are here to testify, so I would prefer to do that.

Chair Furfaro: Are you all set to go?

Ms. Yukimura: Yes.

Chair Furfaro: I will not give you the floor while I sit to watch the PowerPoint.

There being no objections, the rules were suspended.

Ms. Yukimura: So, why are we here today talking about requiring solar water heating for new construction for single family and duplex housing except in a few rare cases where there is not enough sun?

Because one (1) of our most important goals for the County today is energy sustainability but what does that mean? It basically means that Kaua'i is independent of fossil fuels which includes propane and natural gas. Why is this so important? Because if we remain dependent of fossil fuels, rapid price increases or shortages of fossil fuel energy will cause extreme hardship to our families and businesses. And paying for fossil fuels will drain our personal and business incomes, as well as families, businesses, and community less prosperous, or more bluntly, making our families, businesses, and communities poor. Is there anyone in this room that disagrees with the goal of energy sustainability for Kaua'i? Show of hands, anyone? I do not see any hands. The easiest, fastest, cheapest, most efficient step toward getting off of oil is by putting solar water heating on every single family and duplex home. It will replace eight (8) to ten (10) percent of the island's fossil fuel use and I had the help of Walt Barnes in calculating that.

Solar water heating... and this is because solar water heating is ninety percent (90%) efficient, contrary to what was stated by the gas company in our last meeting, this ninety percent (90%) efficiency is widely accepted ratio for Hawai'i. It is free... hot water is free after three (3) to five (5) year payback period. There is no need for prime agricultural lands. There is no environmental risk. There is no significant greenhouse gas production, and financing is simple and conventional. It does not come with the potential complications as there may be with hydro, wind, biomass or large scale photovoltaic. Of the group of existing and new homes...

existing versus new homes, the easiest and cheapest of those two (2) groups is new homes and that is where we are starting.

Education and incentives are not enough. There exist, incentives right now for existing homes, but sixty-six percent (66%) remain without solar water heating. There were incentives for new construction, but that did not move the needle significantly toward a hundred percent solar or new construction. Neither were incentives or education sufficient for low flush toilets or hurricane clips which are no different than solar water heating. They are the best practices that protect the common good, and Walt Barnes, written testimony really makes that clear.

What is the common good with respect to solar water heating? It will prevent suffering and hardship for families when oil prices skyrocket, and we remember 2008 and 1973. It will provide more jobs and money circulating in the economy not only from payroll but from savings that a family can have.

We are doing all of this to avoid energy emergency such as we experienced in 1973, which unless we change our ways, will come back and we do not know whether it will be in one (1) year or five (5) years or ten (10) years, but we do remember 2008, some of us remember 1973 when there were gas rationing and high energy costs. In times like that, our families will thank us for requiring solar water heating.

There is a lot of talk about choice and the question is choice for whom? For the developer/contractor or for the owner/consumer? The proposed amendments to State law would preserve and protect choice for the owner/consumer plus inject an educational piece for the owner/consumer. Those who oppose the amendment want to preserve choice, for the developer, a choice of fossil fuels that will mean lesser cost and bigger profits for the developer at the expense of the buyer who, because of the developer's choice would be denied the choice of a solar water heater and the long term savings that it provides.

We have a chance to harness the sun in a way that will move us toward energy independence and sustainability. It will save our families money and strengthen our community. Let us be bold and secure a bright future for our County. Thank you. I am open to questions if there are any.

Mr. Kuali'i: Thank you for the presentation, Vice Chair. On your second to the last slide, you mentioned that there were incentives for new construction but that did not produce anywhere near a hundred percent (100%) solar water heating, do you know what percentage it did produce, the incentives, approximately?

Ms. Yukimura: No, I do not, but I know that right now fifty percent (50%) or actually on Kaua'i sixty percent (60%) even without the incentive are getting this gas variance.

Mr. Kuali'i: Thank you.

Ms. Yukimura: And I think KIUC probably can tell you, they tried so hard both for existing homes and new construction at a time when there was tax credits for both, now there is only tax credit for existing homes. The tax credit for new construction was done away with when this bill was passed because there was thought not to be a need for incentives because this was thought to be a requirement of all new construction. The irony is that it is fifty percent (50%) are going without solar water heating and they have done away with the tax credit which is creating all kinds of distortions in the market. Are there any other questions?

Chair Furfaro: Do we have any registered speakers?

PAT GEGEN: I am here as an individual representing no one, other than myself. First of all, I would like thank the Chair and the County Council for having these wonderful pamphlets sitting down at the table down there that talks about energy savings. The first one talking about lowering your electric bill, it talks about energy management, and the first thing it goes into is water heater savings. Basically, what it says is, it can be up to fifty percent (50%) of our cost here and here are some ways to save energy, if you do not have solar water heating. Get it. The next one, residential energy-wise practice check list, so a check list, things you can do at home to try to save energy. Again, the very first item on the list, water heating. What does the first check box say, "install solar water heating." A practical guide to home energy use, basically this gives you an idea of the cost associated with keeping current electric going that direction, how much that costs as time goes on. So, some good information. I want to thank you for having that available.

Chair Furfaro: I want to clarify that as Chairman of the Council, I allowed that brochure and I allowed the two (2) newspapers to be on display there because the newspaper – the media pieces are important to communicate information from the Council. Secondly, the electric company is a coop, so that is citizen's material. I needed to clarify that because I do not allow other solicitation in the County Building.

Mr. Gegen: Well, very good. Thank you, Chair. Regarding the amendment in front of you, Act 155 is very clear in what the intention of the solar water heating law is. What are we, especially on Kaua'i allowing developers and builders to go against the intent of the law and not allowing this landmark legislation to have the greatest impact for all. The intent has two major points and I feel that they are important enough to repeat and make sure they are clear. The first one has to do with the desire of the Legislature to decrease our dependence of fossil fuels and forms of energy we cannot produce ourselves-sustainability in Hawai'i. The second major point is the intent to allow variances to the end user based on unique circumstances, such as minimal solar penetration where a solar

system may not be the most efficient or the end user's personal choice. That was clearly an option put in by the Legislature, "the end user's personal choice." The proposed amendment is clearly in line with the intent of Act 155, the Hawai'i Clean Energy Initiative, and would eliminate the abusers we are experiencing with some building on this island. It preserves the right of the end user to make their own well-informed choice, and decision on an item that will have potential implications for twenty (20) years or more. In my previous testimony last year I provided information on the harms of hydrofracking which is how the United States is now recovering eighty-five (85) to ninety percent (90%) of all natural gas that we have. This is a concern if you are concerned about how our choices can have an impact on others and the impact is quite serious. I have also provided you with a detailed list from the State DBEDT Office which identified the variances applied for and granted on the beautiful island of Kaua'i. What was clearly evident was that it was predominantly developers who were using the gas variance and not the end user. I believe the percentage was eighty (80) to ninety percent (90%) at least, of the gas variances that were going through were developer and not end user. To me, this amendment is clean and clearly follows and shores up a loophole that has been used by some to further profits. Putting in a gas water heater in a majority cases on Kaua'i is an example of short-term thinking. Purchasing what is cheapest today with little regard with the choices of the end user or the long-term implications to the environment, if you are really looking long term, in ninety-nine percent (99%) of the cases on our island, solar is your best financial as well as environmental choice. In my mind, a vote to clarify and clean up the solar water heating laws is a vote for the future energy independence of our island, and a vote that preserves personal choice. A vote to stop this amendment from going forward is a vote that continues to allow developer and contractor greed and profit-making to take precedence over personal choice. It is your choice of who you are going to support, the developer is trying to save a buck today and make more profit, put in what is cheapest, again the short term thinking or the end user - the person who is going to be living in that home who can make an informed choice based upon their lifestyle, their needs, and their financial position. Thank you very much for this opportunity to testify.

Ms. Yukimura: Pat, thank you for your testimony. In our discussions last week it was pointed out that the end user may be a renter and actually what we are talking about is the owner of the... but if the end user is a renter, there is very little doubt in my mind that the renter would prefer a solar water heater.

Mr. Gegen: I would agree.

Ms. Yukimura: But the application power will go to the person that is owning the house because at the time of new construction, either there will be an owner who builds the house or... I would suspect a developer that is building the house.

Mr. Gegen: Right and I would want to make sure that we are very clear that the spec developer is the owner at that point in time, so it would have to be identified as a residential or some way to make sure. In essence, the developer is the owner at that point in time when they are putting it in.

Ms. Yukimura: I guess we...

Mr. Gegen: I do not know how to phrase that and my concern... yes, I would love to find a way to incentivize our rentals to have solar water heater because unfortunately the people who are in our rental properties are the ones who are least able to afford to buy their own homes and therefore are less able to pay the month-to-month bills that continue to add up whether it be electric or gas. To them, they are the ones that will benefit the most from having solar water heater.

Ms. Yukimura: Yes, thank you.

Ms. Nakamura: Along your lines of incentives because I think you are right, the incentive to the landlord who now has a non-solar water heating system could best benefit from some kind of low interest loan program (inaudible) if that was available and viable. Is that something that you believe that it would be just for public policy that it would be a good use of County resources to promote programs at the low interest loan program that would encourage landowners to do that?

Mr. Gegen: My personal opinion, I would say "yes." The County has a number of incentives that you can do, even looking at the tax rolls and saying, "if this is a rental property but it has these amenities, maybe a decreased rate, or this could be given," something to try to get that to happen.

Ms. Nakamura: A real property tax break for something.

Mr. Gegen: Exactly, because ultimately if I am a landlord and I put on solar water heater, part of what I am also concerned about besides the month-to-month rent is also the end value of the property, whether it be for my children or my retirement if I am going to sell these properties in ten (10) years and having solar water heater on there is a benefit that is going to help sell that house and make it more attractive in the future. If you go to MLS, they ask about what is the gas cost, what is the electric cost, so a house is obviously much more desirable with lower cost.

Ms. Nakamura: There are also other ways to have energy savings with all of our home appliances.

Mr. Gegen: Correct.

Ms. Nakamura: The use of clothes dryers, the use of dish washers, also adds to the use of fossil fuels.

Mr. Gegen: Yes.

Ms. Nakamura: Do you believe government should also regulate the use of those appliances as well?

Mr. Gegen: Actually what I believe government should do is make sure no sub-developments are put in not allowing clothes lines which that loophole was closed by the State law. We had developments on this island who would not allow people to dry clothes outside, in that case, government should stay out of it. In the case of dish washers, very often it is much more efficient to use a dish washer, again getting back to the hot water use versus washing them in your laundry tubs or your kitchen sink. It is actually a more efficient use in many cases. Should we get involved with that? I would tend to say "no." What I would like to see and again our cooperative-owned utility is very good at trying to identify older appliances and incentivize the purchasing of the Energy Star and not the better use ones.

Ms. Nakamura: So, you do not believe that we should be banning the use of clothes dryers as a way to reduce fossil fuels and impact tool?

Mr. Gegen: No, and there again coming from Kalāheo, there are weeks when I cannot put my wash out to dry. So there is a need for that. During the same weeks, I may have to go and flip on my backup system on my solar hot water system because solar-wise, it did not create enough heat for us to take our warm showers and my wife loves warm showers.

Ms. Nakamura: So, personal situations and geographic situations are important to consider?

Mr. Gegen: Yes. When you look at it from a policy standpoint the water heaters as was documented in much literature in Hawai'i are up to fifty percent (50%) of the electric use here. We are burning a whole lot of fossil fuels to create fifty percent (50%) of the energy used in a home. A dryer, a dishwasher are a much smaller percentage of the amount of electricity that is used, so it does not have the global impact that going to solar hot water would; it would have a much more positive impact.

Mr. Rapozo: I have a KIUC question. Does KIUC have any programs to incentivize solar water heaters?

Mr. Gegen: Yes, they do.

Mr. Rapozo: What do they have right now?

Mr. Gegen: Right now, I believe the main one we have is for the aftermarket because again this law was instilled and so the incentives went away from that, but if you are a homeowner that currently has a water heater that is not

solar, there is a rebate, I believe seven (7) or eight hundred dollars (\$800.00), but you would have to call KIUC energy services to confirm that.

Mr. Rapozo: I guess I want to question the one statement you made about the renters that more than likely they are the less able to pay, and yet on this island and in fact in many business articles now that I am reading, they even question what is more beneficial to people-whether you buy and rent. There a lot of people on this island that are renting properties that are not poor.

Mr. Gegen: Sure.

Mr. Rapozo: They definitely have the ability to pay and in fact... in my line of work where we serve all the foreclosures and evictions, I think a lot of the homeowners now are in situations where they cannot afford it.

Mr. Gegen: Right.

Mr. Rapozo: I just wanted to clarify that statement because it came out as saying the renters are the poor people and the homeowners are... that is how I received it and I just wanted to clarify that. That is really not really what is happening out there. We got a lot of affluent people on this island that are renting today.

Mr. Gegen: Oh yes. I do not disagree with that but we do not have very many poor people who are owning the homes.

Mr. Rapozo: We do, believe it or not.

Mr. Gegen: Well if it was handed down or something like that, yes, I agree.

Mr. Rapozo: Okay. I will save the rest of my comments.

Chair Furfaro: Again, for the speaker when they give you your time and when you have your time, the response should be focused on the question posed and not to expand it, giving other Councilmembers time to query their questions.

Mr. Chang: Say you got a three (3) or four (4) bedroom home but it was installed with a smaller solar unit, so now one (1) would rent the place and maybe have five (5) or six (6) people living under one (1) roof.

Mr. Gegen: Okay.

Mr. Chang: If not six (6) or eight (8)... so what happens because a lot of the smaller solar units have a capacity of maybe one (1) to three (3) people. Ultimately, I am in a home – a three (3) or four (4) bedroom home with six (6) to eight (8) people, so what happens after first thing in the morning or the later part of

the evening when the hot water is out, do they then go to the power box and click it on?

Mr. Gegen: It depends on how the set up is. Manually, my power is off to my hot water heater because I want to make a conscious decision to turn it on. I also have a timer there and what that does is if it is six o'clock (6:00) at night and there is no hot water, the thermostat will see that, the timer would then be on, the thermostat will kick it on, it will heat the water up for a couple of hours and then turn it off. So, I am not heating the water all through the night when I am not using it for hours.

Mr. Chang: Let us say for example, I am a renter and my utilities are included, how do you get an incentive because most people like taking hot showers in the early morning or after a long day of work. Ultimately that does not save the homeowner or the renter any money if they just leave it on all month.

Mr. Gegen: You are right, if they leave it on all the time, it would not save anybody any money. And you are wasting a lot of valuable electricity.

Mr. Chang: Ultimately, the landlord comes back and says, "we are going to have to raise the rent from eight hundred to nine-fifty to compensate for the electric," how do we educate the people about the benefits or usage of the solar?

Mr. Gegen: Well part of the education will take place on that discussion was happening because if you are the landlord and I am the renter and you come and say that you are going to raise my rent and I ask why and you say because you are using too much electricity, I am going to say, "okay, let me take a look and see what I can do." How to educate the public? I do not know, there are a lot of ways we can...

Mr. Chang: And I bring that up because I chat with people that are now in the rental business and the original water system that they put up was based on a family of two (2) to four (4) people, but based on the fact that two (2) to four (4) people were living in a three (3) bedroom and now there are six (6) to eight (8), obviously the water does not retain as hot as it would.

Mr. Gegen: Now the only benefit there is if you got six (6) to eight (8) people, at least that cost is being spread amongst multiple people instead of if it were just three (3) in there, then their cost would not be as high.

Mr. Kualii'i: In your written testimony you ended with a statement, "please give our homeowners a choice and our renters a break on their electric/gas bills." When I watched the last meeting, I think in your statement here giving homeowners a choice, you are meaning to ensure that they have a choice to pick solar water heaters?

Mr. Gegen: Solar, gas, or whatever option they choose.

Mr. Kualii: And others have been arguing that the choice is to have the option of other than solar water heaters. When it is already put in place, one side or the other does not end up having the choice, but here as the individual, the bill the way it is written with the variance does give the end user, homeowner occupant the choice.

Mr. Gegen: With the changes that are identified, yes.

Mr. Kualii: And you are okay with that?

Mr. Gegen: Yes, I am.

Mr. Kualii: And your second part of your statement about giving renters a break on their electric/gas bills, so the renter themselves, and I think the clarification is coming in the amendment, would not be involved with the decision on whether to have a solar water heater on the roof or not, it would either be the individual who is building it and then ultimately deciding to rent it out or the developer who is building a group of homes or houses. In that case, you are arguing that the end user or renter should have the choice of having a solar water heater but in fact that would be requiring... and it is in keeping with I think the Legislature's intent was to get more solar by a mandate to get more solar water heating heaters on roofs. The difference there is the individual has a choice, the developer who is building a subdivision should not have a choice, and you should automatically put in a solar water heater so that the person who buys the house has a choice of having a solar water heater, but is it really a choice at that point? I think the example where Councilmember Bynum said he was looking at houses to buy and then it did not have a solar water heater, it had a insta-heat – insta-gas, so he chose not to buy that house. But in this case, it is the reverse and I understand that it is in keeping with the mandate and trying to minimize the variances.

Mr. Gegen: As a person who has worked in the construction industry, I built my own home, I would tend to say to me, a developer could add value to the house by allowing it to be able to go both ways. If you think about it, putting in solar water heater after the fact, there are a few things that might cost a couple hundred dollars that you could do to prep the house, so if the buyer wanted solar hot water, that is an option they could choose. In the same vain, running a little bit of gas pipe while you are constructing the house is relatively cost effective, it does not cost a whole lot. An additional cost in my particular house, which is a very small house, it would only cost me a hundred or a hundred and fifty dollars to be able to say "okay, I want a gas heater," here it is and the gas company brings the gas bottle out. I want to go solar, okay, the piping is up, it is in the attic and all I have to do is do my final holes and make my tie in with the water heater. To me, the developer would do better by setting it up for either and you are talking high end houses are the ones that have the variances, to add a couple of hundred dollars

to that price and then take off the cost of the water heater and say buyer your choice, would you like gas appliances, solar water heater, what would you like? Most people buying a new house would like that opportunity to make those decisions, so that is how I would approach as a developer.

Mr. Kuali'i: Thank you, I appreciate that. The last question sort of has to do with some of the discussion on incentives and it leaves me to think... would you support incentives not only for the end user home occupant but also for the developers, what do you think about that? It could ultimately get costly, I would imagine.

Mr. Gegen: It could get costly, I do not know, I have not thought about that.

Mr. Kuali'i: The reverse of that is if the mandate was strong and working and the variance is only for the homeowner occupant then that is only where you would need to provide the incentive, I would think.

Mr. Gegen: Right and I do think as Ms. Nakamura mentioned if we can some way to incentivize those that we know are going to be rentals, to me that have great social value.

Mr. Kuali'i: Right. Thank you.

Chair Furfaro: Vice Chair, before I recognize you a second time, I am going to provide some questions for myself. Pat, when we ended up in a 3:3 tie last week, I talked about the possibility of introducing a bill which I will plan to do to deal with an incentive/a credit on property tax.

Mr. Gegen: Okay, that is wonderful.

Chair Furfaro: For homes up to four hundred thousand, not those that exceed what I think are targeted really for permanent primary homeowners. Maui, Big Island, and Honolulu all have that between three to seven hundred and fifty dollars. One in particular interests me because some of these incentives are actually offered by Maui Electric. Is KIUC considering this because they are the beneficiary of the incentive to put solar (inaudible) as well, because by PUC mandate you have to have redundancy power for whatever your peak demand is. Peak demand whether it happens in a household... the kids coming home from football practice or everybody is getting home, that is what the demand is... 6:15 in the morning on Kaua'i and the 7:05 in the evening, those are the peak demand times. Is KIUC, and I am asking you this as a board member, considering some of these incentives because they are our beneficiary as well, so they do not have to service these peak demands. There is hot water already in the tank, you do not have to turn on the heater. Do you know if the board is considering anything like that?

Mr. Gegen: I am not at liberty to speak for the board of course, I am just one individual who is a director.

Chair Furfaro: Do you have any knowledge that that has been an agenda item at your board meeting?

Mr. Gegen: I can tell you that we will be discussing potential demand reduction strategies and how to try to... and yes, we do have an incentive to try to do that as you mentioned with our peak. We do set aside a certain amount of money for demand reduction programs. The current one that are in place are what is in place, we will be looking at that when we get to our budgetary sessions also.

Chair Furfaro: I just want to let you know, I am going to be answering that question and probably ask Mr. Chang to help introduce it because it is an Economic Development item and he is the Chair of that Committee. Let me ask you also, on the math the argument about the upfront investment and so forth, four (4) primary homeowners, the math is not that hard to do. If you take a fifty-five hundred dollar loan for a basic system at four percent, you are adding about twenty-eight dollars a month to a mortgage to finance that.

Mr. Gegen: Right.

Chair Furfaro: Currently, Vice Chair Yukimura made a presentation that showed thirty years, I think we need to work more on twenty years and that is what my number comes out with. Because normal repair and maintenance requires this but in an agreement with her presentation, Mr. Barnes shows that you would save about fifteen thousand in electric cost during the lifecycle of the heater. The trade out becomes one where you have twenty-eight dollars more on your mortgage, and based on Mr. Barnes' calculations, you are going to save almost twice that in a year for an operating cost of your household mortgage application. We all know when you file for a mortgage, they ask you what is your car payment, what is your estimated electric bill and so forth, because they take total income and so forth. Have you folks pursued any programs that would allow this to be... for example, on Maui, and I have got all of these different programs here, they actually give a hundred percent tax exemption in Honolulu for alternative energy programs on solar up to a rebate of seven hundred and fifty dollars. Have you guys been doing any cross references on this?

Mr. Gegen: I have not done a whole lot of studies, are you talking from the Utility's standpoint?

Chair Furfaro: Yes, from the utility's standpoint.

Mr. Gegen: I mean we are aware of what some of the industry trends are out there and our rebates on the solar right now are seven hundred dollars flat. It is not even a percentage, if you switch from one to another, that is true and to further your discussion regarding the monthly cost, I put a kilowatt

easy meter in front of my computer that tells the pump when to go to replace the water and everything, I put it on there for two weeks and without having to turn it on for boosting the heat, the solar water heater which I have installed in my house which is a eighty gallon, two panels up on the roof, which is enough for a two bedroom home, cost me six dollars in electricity a year at forty-five cents a kilowatt. That is the annual cost that I have to pay just to have it circulate. If I go and hit the button and turn the alternate heater on, of course I am going to incur more cost. The cost savings can be tremendous as you mentioned.

Chair Furfaro: Well I am not quite as technical as you, but I did go to business school and I can figure out interest rates versus cost savings and the argument as far as tacking an investment on a mortgage versus the savings in your operating cost. I have done some work on this, I managed a hotel here that my monthly electric bill was two hundred forty-two thousand dollars a month. These are substantial amounts of money but for an average family of four (4), the math works out where you could possibly actually be saving money with the conversion and the long term financing through a mortgage. Do you folks have any kind of study on the other three (3) Counties as far as incentives, and if you do, my last question would be could you send something over to us and anticipating us framing a similar bill?

Mr. Gegen: I will be happy to check with KIUC staff and see if they have any information but I am not aware of any, but if we do, I would be happy to.

Chair Furfaro: Thank you.

Ms. Yukimura: Pat, your support of a financial incentive is in lieu of or in place of this bill that is before the Council?

Mr. Gegen: You mean with KIUC?

Ms. Yukimura: No.

Mr. Gegen: I am sorry. I did not follow you.

Ms. Yukimura: As I understand you say a financial incentive would be a good thing. Are you supporting this idea of a financial incentive in lieu of this bill? That you do not have to pass this bill because we are going to have a financial incentive or in addition to the bill?

Mr. Gegen: It would be the later. I believe this bill should pass because all new construction should have solar hot water on it or at least give the end user the opportunity. When I am talking about the financial incentive, that was much more focusing on potential rental properties that with the language that is being crafted, I think would be exempted or would be able to use this variance potentially?

Ms. Yukimura: Well we know landlords do not have as much of an incentive to put solar on rents because they are not the ones who will get the benefit of the lower energy cost.

Mr. Gegen: Correct.

Ms. Yukimura: Unless they are really conscientious landlord and most times renters have to pay the utility bill. That is why often time renters are left out of the solar water heating benefits, so this requirement that requires solar water heating on all new single family construction would help renters.

Mr. Gegen: I believe so.

Ms. Yukimura: And then in terms of Councilmember Nakamura's question about geographical situations, our geographical situations as related to solar insulation or the amount of sun that comes down based on location on the island that is addressed in the existing law, right?

Mr. Gegen: Correct, it is.

Ms. Yukimura: So if an applicant and it could be an owner or developer can show that there is not enough sun to make solar feasible, they can apply for a variance?

Mr. Gegen: Yes, and that information is right out on the State DBEDT side, as well as you can get the solar maps that show you what the solar penetration is in different parts of the island, and I would say that maybe five percent of our residents live in a highly solar considerate areas, so it would benefit the majority of people.

Ms. Yukimura: My last question, the incentives that KIUC has given right now you said there is either a zero interest loan or seven hundred and fifty dollars rebate for solar water heating, has that moved the residential community to the goal that KIUC has which I assume is a hundred percent solar water heating?

Mr. Gegen: I do not know if KIUC has set a goal per say but obviously we are incentivizing switching over. I can tell you that the program for people who are retrofitting coming in after the fact and putting in the solar hot water heaters, I mean we use that money consistently on a quarterly basis. It all gets put out. We are definitely meeting that and I am sorry, I missed part of your question.

Ms. Yukimura: I guess I am asking are all the people who could have solar water heating... I mean is that incentive putting solar water heating on all the residential existing homes?

Mr. Gegen: That is not enough. It is another incentive for those who are looking at it and if you can get another seven hundred fifty dollars, cheaper (inaudible) with the tax credits you can get, it makes the pay back much quicker. But it does not achieve one hundred percent solar penetration.

Chair Furfaro: To the group here, we have four (4) other speakers and we set an hour for today's time and again I would like to point out to the members of the Council, please, if you have a sidebar discussion going on, please go to the analyst table especially while we are taking other testimony. For a couple of you in the audience, if you have discussion going on, we get feedback from the mike and please take your conversation outside.

IVORY MCCLINTOCK: Aloha. Thank you, Chair, for allowing me to testify, and good morning Councilmembers. I am in full support of the proposed amendment to Act 204. The Solar Roofs Act, Act 204 was a critical step towards energy independence as a State, and I hope the original intent of the bill becomes clear through this amendment.

The Solar Roofs Act was such an important law that has really put Hawai'i on the map as a national leader in clean energy. Being the first State in the nation with such a progressive energy requirement launched Hawai'i into the pages of national news such as the New York Times, USA Today, and news stations across this Country. I hope that our County can capitalize on the success of this law and to move forward to put more solar hot water heaters on the roofs of our homes and be an example for the rest of the nation, because I think that Hawai'i has the opportunity, and if we do not continue to push this bill forward, I think that we will lose that... we will lose that edge. You guys talked about it earlier, you all know the unique opportunity that we have as a State but especially as an island.

With the unique opportunity that we have in our State and especially here on Kaua'i, we can be the leaders to set an example by closing this loophole that is not within the original intent of the bill which was to make sure that our homes of the future are equipped with a clean renewable energy system. I hope to see our leaders taking the necessary steps to secure a clean energy future for generations to come. This means closing any loopholes that will take us further down the road of imported fuels. While liquefied natural gas is cheaper and by some consider cleaner, the reality of it is that it is not helping us as an island move towards energy independence, it is only shifting our focus from renewable energy sources found on island, to a "quick fix" solution.

I hope that the County Council will consider my request to support this amendment and understand the importance of securing a clean energy future for the people of Kaua'i. Thank you for the opportunity to testify.

Chair Furfaro: Just one moment, we will see if there are any questions for you.

Mr. Chang: Ivory, good morning and thank you for being here. Did you submit your testimony to us?

Ms. McClintock: I did not.

Mr. Chang: Okay, we will have the staff grab that so we can get a copy of your testimony.

Chair Furfaro: Anyone else? If not, thank you very much.

FRED STYER: This is a special chance to talk to a lot of friends and thank you for letting me be here today. I am a resident here in Līhu'e and I work with renewable energy technologies which is a small company. We started about four (4) years ago and our mission is pretty clear, it is the same mission that we have with this amendment. It is to get away from fossil fuels. I am only here today to say that I am a little confused as to why we are questioning not moving on with this amendment. It is a responsibility that we all have and especially you as leaders to support the State's goal. We have an extremely aggressive goal to get off of fossil fuels and we have to start somewhere. It might be the trucks, it might be the automobiles that we drive... I do not know, but you can think of many times this nation has been challenged to make changes that we do not want to make just because we got to make the goals that we have in front of us, and the goal that we have right now, especially for the generations after us, is to make possible for us to live a good life without worrying about the price of oil. I worked in the oil industry for about fourteen years, I was on the rigs when we were pulling oil out of the ground, it is very expensive nowadays and it is only going to get more expensive. I do not know if you are watching over the years but I remember when gas was thirty-five cents a gallon. All the points that were made, I have watched the whole thing that you guys did on August 22, lots of good points were made. The choices, we should be maintaining choices and government should not get involved when it is not critical but it is critical now. We are at a crossroads now where we have to make hard choices. The hard choice right now is to make sense out of the low hanging fruit I call solar thermal low hanging fruit. There are other ways that we can come in here with appliances and things like that, those are not the low hanging fruit... the low hanging fruit is solar hot water, it is a no brainer. It saves so much money, it saves so much energy, and I do realize that we do have choices in this amendment that makes sense so we have to start somewhere. I think the point that I am trying to make is the technology of the subject has already been set. Everyone agrees, it is a smart thing to use the sun to heat our hot water, I do not think anybody is debating that. What is on debate here is whether or not we should get involved on choices and in this case I think we should. Thank you.

Chair Furfaro: Any questions? I just want to give some clarity of what we are working on today. What we are working on today is coming from the Council to go to the Legislative branch that is what is in front of us. The earlier conversation about credits for new owner-occupied homes would be a local bill for

tax credit. It is not for across the board, it is owner-occupied, especially targeted at people like Habitat and so forth that would benefit from that. There are two (2) different pieces here but this piece that is moving forward right now is a statement from the Council to encourage the Legislature to move on the Statewide policy. Vice Chair Yukimura, I need to give you the floor, I got a buzz from the County Attorney that they want to meet with me.

Chair Furfaro, the presiding officer, relinquished Chairmanship to Ms. Yukimura.

LAUREL BRIER: People do not always do the right thing and that is why we depend on Legislatures to make law. I think you have all spoke at one time or another about supporting and wanting energy independence and that was the intent of this bill and it is flawed, and the variances are supposed to be an exception for certain cases and it is not how it is being used. That is why we need to close that loophole. I know the thing about freedom of choice, there were people who did not want to put smog control devices on their cars because it cost many and it changed their mileage but sometimes we need to do things for the common good and that is what we count on our law makers to do and that is what the intent of the bill. What this loophole has done really when you look at our stats here on Kaua'i, it created a real boom for the natural gas and for the gas company and this is not... it is a finite resource that needs to be shipped in that is very polluting on how it is being... and it is adding to greenhouse gases. It is not moving us towards energy independence and it is being used to much great extent. I need to tell you this conversation I just had last night with my husband, he is a builder and he is building this high end house in Kahiwai Ridge and he said that, yes this homeowner wanted solar water heater and it was the architect that talked him into not getting it... and the architect went himself and got the variance and he asked my husband to go ahead and rough-in for solar water heating because that is his preference, but I think the architects motivation is that it does not look good. The reason he used was that it is going have to be put... there is not a good place to put it on the house, the house is so big that it will take a while for the hot water to get to the kitchen. But the main reason for asking for this variance in this case, and I think probably many cases, is that is the architect's showcase and he does not like the look of it on the house. To me, that is not the purpose of this variance and so close that loophole. I think that if we are not willing to do this, what are we willing to do? I really think we need to let our community know how each of you stands on that and that is what I think is my responsibility in being part of the core group of Apollo Kaua'i is letting people know how you vote on this and what you are willing to support and to be bold in closing this.

Mr. Chang: Laurel, good morning. You submitted a testimony from Apollo Kaua'i with the signatures of yourself, Pam Burrell, and Sharry Glass.

Ms. Brier: Yes, and I actually I have my own too.

Mr. Chang: Did you read the separate testimony from Pamela Burrell?

Ms. Brier: I did.

Mr. Chang: But what you mentioned about the roof top, you saw her comment about twenty years ago the designer in her thought it would be ugly and now if she knew what she knew twenty years later, this sets...

Ms. Brier: That is why the comment I read from Council Nadine was about... we do need to educate our architects but people are sometimes still self centered and that is why we have to mandate things. I think giving more education or mandating education to our builders and to our architects as far as the overwhelming benefits of putting in solar water heater and try it for the common good and to set aside their own personal aesthetic.

Mr. Chang: That was a big part of the discussion last week regarding the solar.

Mr. Kualii: I appreciate that point and that story about the architect but in fact the variance that is giving the choice to the end user, the homeowner, the occupant would still be the case with what we are looking at. If we pass this proposal to go to the Leg, there is the variance that the end user, homeowner can...

Ms. Brier: Could still ask for it, yes.

Mr. Kualii: So if the architect is successful in convincing a homeowner to get it, they could still go get it.

Ms. Brier: Yes.

Mr. Kualii: Again, the point you said about education and...

Ms. Brier: That is true. In this case, I believe this man would not have though. He would not have gone through the problem to go get one and he is not the one who did the legwork to go get it. He is going through the trouble of having the... because it is very difficult to put on solar water heating after the fact, so he had it roughed in because he does intend to do it.

Ms. Nakamura: Has Apollo Kaua'i done anything to help educate and talk to architects, contractors to talk about the opportunity of the environmental benefits?

Ms. Brier: We have not specifically targeted those population but we have done a lot of community education as far as solar water heating.

Ms. Nakamura: Would you be open to doing that?

Ms. Brier: Yes, I think that would worth...

Ms. Nakamura: Because I think that would be...

Ms. Brier: Some architects and builders are active, such as Palmer is active with Apollo Kaua'i.

Ms. Nakamura: But it seems like if we know... there is a list from DBEDT who is asking for the variances – the developers, contractors, the architects, that some sort of gathering of... between organizations when they have their meetings to come out and be able to speak – would you be open to doing that?

Ms. Brier: Yes, and I think that would be worthwhile and sometimes other things override the common good and that is why we need laws to kind of force people. I do commend the incentives that the County...

Ms. Nakamura: Would you be in support of some of those incentives especially for the rental unit, the owner who does not have solar now but would be more willing to install one now with a low interest loan?

Ms. Brier: I think not to be dependent on it, I think it still needs to be part of the law that it is a mandate but I think incentives... whatever works.

Ms. Nakamura: It seems like since the law passed, there were two hundred and ten variances out of three hundred twenty permits issued and do you have any data on why those variances were issued? Because that is something I know Jay was asking for last time.

Ms. Brier: Pat had some information on who was going for these variances, which I think is an indication of why but that are why I was wondering to and that is why the story my husband told me was interesting.

Ms. Nakamura: Well and that is why it is... to me it is important to not know just who but what was the reason for the variance? Sounded like what you described were two (2) things, one (1) was aesthetic and the other one was functionality, so from up there to the kitchen... to me, that is important information as a policy maker to understand what is behind these two (2) things and to lead to the conclusion that some have need here. That it is out of greed and profit making – that might be but I would like to go deeper and understand that. I think that is important to really get a better handle on it.

Mr. Brier: Well that is why I questioned how are these variances given unless it is really for a substantial reason. I thought the one (1) legitimate reason was that there is not enough solar in that area, it is not that it would not work.

Ms. Nakamura: Right.

Ms. Yukimura: The other variances for... if it is from a renewable energy source other than solar water heater that a variance for that is allowed. The gas one makes no sense in terms of merit.

Ms. Nakamura: But it is in the original Legislation.

Ms. Yukimura: And that is why the original... it was put there by the gas lobby and so...

Ms. Nakamura: We should clarify that, it is actually put there by the Legislature.

Ms. Yukimura: Yes, but under pressure of the gas lobby. It is a special interest provision that provides for gas company to get away from this requirement.

Ms. Yukimura, the presiding officer, relinquished Chairmanship to Chair Furfaro.

Chair Furfaro: I am sorry, Laurel, I had to excuse myself, I did not hear your testimony.

Mr. Rapozo: I guess what I am trying to understand from several of the speakers and testimony that we have received is that government needs to mandate certain things but what are the parameters that we should step in and mandate personal choice? That is the battle I am having right now. All of the testimonies that I have heard today... I cannot disagree with the testimony, I really cannot, but Councilmember Yukimura talked about hurricane clips, there are specific reasons for that because obviously during hurricanes, houses fall apart and there are potential physical damage and injury and possible death, so I can see the mandate for that, and same as seatbelts and so forth... but where does it end? Where is that line that government should cross and say, "now you cannot do a certain thing" versus saying "this is what we would like to see and if you follow what we want, we will incentivize it by a tax credit" maybe a five hundred or whatever it is... seven hundred fifty dollar tax credit on your real property bill which is substantial for many people. Where is that line or where should that line be? Councilmember Yukimura talked about the gas company lobby is very strong, well I will tell you that the environmental lobby is very strong as well. I mean it does not matter, lobbyists come and go, but at the end of the day it is the Legislature that says "yes or no," not the gas company, so where is that line where Legislature should...

Ms. Brier: I do not think we are anywhere near the line when it comes to this and when you talk about environmental lobbyists versus the gas company, lobbyists are not lobbyists, when environmental of grassroots group like Apollo Kaua'i – we are talking about the common group. I am not talking about my personal profit, I am not talking about my business, I am talking about what is going to affect us and our children and the world we live in for everybody.

Mr. Rapozo: I am not disagreeing with you.

Ms. Brier: But this seems so reasonable to me. You are not asking me to add extra cost to the house... this is for people building a new house, we are right here and it makes perfect sense. It is not an infringement, it is just like you requiring certain other building materials or things to be used for the common good, for good reason. It is sensible.

Mr. Rapozo: My question is... where does this end? If we are looking at energy conservation and the use of oil, do you believe that it is the government's responsibility to start mandating temperatures in buildings for business in residential areas? You think that we need to mandate what types of vehicles people can drive? Because obviously...

Ms. Brier: Yes, yes. I believe we should. That is why I agree with the law that just passed for emissions that Obama's Administration just did that. That emissions need to be at a certain level that we need to mandate those things. They may want a car that... and I am sorry you are not allowed to do that anymore...

Mr. Rapozo: So your position is that government should step in and say "we should mandate that all vehicles... your next new vehicle..."

Ms. Brier: Has a certain emissions, yes.

Mr. Rapozo: I am not talking about emissions, I am talking about energy... gas use... use of the fossil fuel itself which is what... the argument here is that solar is going to use less fossil fuels because it uses none and I am saying do we apply that same argument to vehicles and say "a v-8 vehicle, obviously burns fifteen to seventeen miles per gallon versus a 4 cylinder or hybrid," do you believe it is government's place to come in and say effective 2013 any new vehicle purchased in Hawai'i must be a 4 cylinder unless you can prove that you need a vehicle for your work - business?

Ms. Brier: I do not know about the details of what you said about the 4 cylinder stuff but I agree with the intent. Yes, we depend on Legislators, law makers to do those things.

Chair Furfaro: I am going to end it right there. This is getting too argumentative of the item in my opinion as Chair.

Ms. Brier: Okay. I did not feel that it was argumentative.

Chair Furfaro: Well that is my judgment as the Chair. I just want to leave it at that.

LUKE EVSLIN: I had a written testimony prepared but I realized after that last testimony, I think what I have to say would be irrelevant because I

realize that it does not really matter what I say. It has been shown over and over again that solar water heaters are cheaper over their life and better for the environment, put us on a path towards self-sufficiency, and if I add to that, it does not matter. The argument is more about as Councilmember Rapozo says, limiting personal choice and government's role in doing that. In my humble opinion, that is your guys job – it is to sit there and make decisions for the betterment of society and Kaua'i. That is what we as taxpayers paid taxes for. In every environmental initiative ever has been a limitation of personal choice in some fashion from the kapu system to banning DET, which saved the bald eagle, to banning VOC's which saved our ozone layer. These things... you do not hear us talking about the ozone layer anymore because it is repairing itself because we banned VOC's. Our entire government is based on limitations on personal choice, our monetary or judiciary, so in my mind, you are... again with all due respect not doing... let me put it differently, if you are going to vote "no" on this, I would hope that there is a better reason than not wanting to limit personal choice because it is something that is pretty clear cut and obvious. It is better in every way like you said it is the low hanging fruit. Real quick, I looked it up when I was sitting there that the fossil fuel out-spends the environmental movement by five times, and again, they are not equal. Thank you.

Chair Furfaro:

Thank you very much for your testimony.

DEL ALEXANDER: I am a licensed plumbing contractor specializing in new home construction on Kaua'i for the past twenty-four years who currently installs both tankless and solar hot water systems. I am in favor of bringing the solar mandate to the intent of its designers and would like to explain why. Some people say that the mandate is un-American and does not allow consumers the freedom to choose how they spend their money. But as a contractor, I know that all buildings must conform to code, and the code was established for the greater good of the community. I think mandating the public to save thousands of dollars, preserving the environment, and utilizing our wonderful resources on Kaua'i is a positive step to what we hand off to the next generation. There are different reasons why I am here and different points that have been touched on why solar are a really good thing. We know the cost, we know that it is a really good thing, and it is a really good environmental choice.

I would like to go back to choice. Now when we allow contractors to build houses for spec houses or these developments, what we are doing is we are allowing them to design these houses, put these things with fossil fuel, water heaters, and then somebody like me is going to have to come back when the actual buyer or the actual person that is going to live there is going to try to put in solar because they feel that they do not want to be part of this fossil fuel generation. I have had to pull the rabbit out of a hat many times trying to get these houses to put solar in, because it is really difficult once you allow people to build houses; it just becomes more obstacles to put in solar. We are not exactly giving the end user a choice when we

allow houses to be designed and only utilizing fossil fuel water heating generation. It is hard for me to do that. I can do it, but it costs a lot of money, and the end user is definitely the one that is going to suffer. In my experience the people electing to use the variances to get out of installing solar hot water systems on new homes are those who build a house, live in it for two (2) years, and sell it without having to pay excess taxes. However, my young budget-minded customers always opt to install solar hot water system due to the returns it will deliver over its lifetime. They will forego the granite countertops and hardwood floors to get the needed savings on their monthly bills.

In addition to these reasons, I have some great concerns about the large scale of shipping and converting of LNG to natural gas on Kaua'i. LNG in its liquefied and compressed state is very potent as it is compressed six hundred times its natural state. If an explosion were to occur either on the massive ships used to transport it here or during the conversion process to natural gas in Hawai'i, we will find out the hard way how prepared we are to be sustainable. I am also concerned because the testimony that I heard the gas company representatives give at the last Council Meeting on this issue, it seemed that they were advocating an installation of gas piping infrastructure for new residential development and explaining how much cheaper this LNG converted natural gas will be. I wonder if those on Kaua'i living in existing houses will be able to take advantage of these savings unless their houses are retrofitted to accommodate the necessity of larger gas piping and that could be expensive. The final concern I will express about LNG is its source. I feel uncomfortable taking advantage of the promise of cheap energy if it is obtained by the process of fracking, which is polluting groundwater where it is mined. Its impact on the environment might take some time. In closing, it seems ironic that I have spent my entire professional life advocating for the clean, renewable energy supplied by the sun and now we seem to be going backwards towards fossil fuels. It is going to take a lot of green shirts and name changes for me to really believe that LNG or propane is clean energy and the best for Kaua'i to heat our hot water.

Chair Furfaro:

Questions for the speaker?

Ms. Nakamura: Thank you very much for your thoughtful testimony. I wanted to get a better idea, it seemed like a lot of the variances from instituting solar water heating has come from certain specific developments that are very high-end developments and I am just wondering if you had any sense of why. One of the concerns that I thought might be why is that some of these residents are here part-time. They are building these very beautiful custom homes but they might not be living here full-time, and I was just wondering would that fact influence a person's decision to put in solar water heating or not?

Mr. Alexander: Yes, in fact where my line is, I feel that if a resident is here six (6) months a year or more, it should be definitely solar. But if there is somebody here and there are many of these homes, I work on these homes that

people are here two (2) months a year, those people there, I recommend a gas water heater.

Ms. Nakamura: Why is that?

Mr. Alexander: Because you are not going to utilize your energy of the sun because it is just going to sit there and stagnate and it is not going to be used.

Ms. Nakamura: I was talking to a production developer in Honolulu who does work Statewide, and one of the concerns also raised was that small families, for example, elderly husband/wife situation where maybe the usage may not be that high that sometimes it may not be a good fit. Do you have any experience with low usage?

Mr. Alexander: I have experience with solar hot water heaters for one (1) person, for two (2) people; you just size it correctly.

Ms. Nakamura: So, that may not be an issue?

Mr. Alexander: It is all about sizing and it is all about if you do not have the solar resources that are like Po'ipū, you just have to size accordingly.

Ms. Nakamura: You design it for the number of occupants?

Mr. Alexander: And the number of occupants, yes, and their habits too. If you have a eighty gallon Jacuzzi tub that you would love to get into every night, then of course you are going to have to upsize. It is kind of like use and need and it is very easy to do.

Ms. Nakamura: Thank you very much.

Ms. Yukimura: Del, on these people who are here less than six (6) months, what percentage of people are they? Assuming they are not using it for vacation rental either, because a lot of people will do that, will they not?

Mr. Alexander: Well most of them vacation here.

Ms. Yukimura: Yes, so that is more than six (6) months use then?

Mr. Alexander: But I did one (1) system in Princeville where the people lived in the mainland and they are here six (6) months a year, but they just did not feel like they wanted to burn oil to heat their water even if their house sits for six (6) months. They just turn off their solar and actually they will, since they live here for six (6) months a year, the cost savings still works in favor of the solar hot water heater.

Ms. Yukimura: So it does not hurt to require solar water heater in cases like that?

Mr. Alexander: Well my line is about six (6) months even though I have not sat down and did all the numbers and the usage because I am sure every situation is different. That is just my personal opinion.

Ms. Yukimura: And that house which may rent for less than six (6) months may eventually be sold and used full-time.

Mr. Alexander: That is a great point. Because the lifetime of the house and the solar hot water heater is quite substantial. The solar water could last fifteen to thirty years, and the house should last about sixty year old, whatever, depending on how it is built.

Ms. Yukimura: That is why solar is such an important energy saver because it is a fixture that lasts for the long time on a daily use basis in many cases.

Mr. Alexander: Yes, the solar water heating... there is just nothing better. We do not have to import anything and the sun comes up every day and it is very simple.

Chair Furfaro: Del, thank you very much for your testimony. I think you are the last testifier and we are going to have a recess here so we can appropriately do a recognition.

There being no objections, the Council recessed at 9:54 a.m.

The Council reconvened at 10:46 a.m., and proceeded as follows:

There being no objections, the rules were suspended.

KEN TAYLOR: I am certainly in favor of moving forward with this information on requiring solar and having a choice, but there were two (2) questions that came up this morning, and before I get there, let me just say I certainly appreciate all the fine testimony that took place this morning. I think there were some real good testimony and I agree with almost all of it. Two (2) questions that was something like this... "how a large household benefited from a solar if it was only good for three (3) or four (4) people?" That is certainly taken care of by a proper adjustment of what requirements are needed to take care of the size of the household. The other question was, "where do you draw the line?" In Laurel's testimony she talked about the common good. In Fred's testimony he talked about no brainer, and I really believe that there should be no problem with wondering where you draw the line when you are talking about common good. This is not only common good for the people of Kaua'i but it is the common good for everybody around the world. I think that it is important that all communities around the world move forward with getting off of fossil fuel. We have to remember that fossil fuel is a finite resource; it might not run out tomorrow or the next day, but down the road it is going to be very expensive I do not imagine the world will ever run out of

the oil but it will get to the point where we can no longer afford it. When it starts taking a barrel of oil to get a barrel of oil out of the ground, there will be absolutely no reason to go after it. That brings us to the no brainer. I think the whole situation boils down to common good and this decision is a no brainer. Thank you.

Chair Furfaro: Any questions for Ken? If not, is there anyone else that is wanting to speak?

There being no objections, the meeting was called back to order, and proceeded as follows:

Ms. Yukimura moved to amend C 2012-348 as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 1, seconded by Mr. Kuali'i.

Ms. Yukimura: It is shown on page 3 of the circulated bill. It mainly clarifies that it would be that the person who could apply for a variance, an "on-demand gas variance," would be somebody that is the buyer/owner and not the developer/contractor.

Chair Furfaro: Discussion on the amendment?

Ms. Yukimura: I appreciate the questions that were raised that lead to us being clearer about this.

Chair Furfaro: No questions on this amendment?

The motion to amend C 2012-348 was then put, and unanimously carried.

Chair Furfaro: We will go to the main motion as amended. Any discussion?

Mr. Kuali'i: I did miss the meeting last week because of illness, I was able to watch it a few times so I was able to consider the testimony that was given last week, as well as the comments by all my fellow Councilmembers. I appreciate all the testimony today as well. I would like to say that as a strong progressive, my lifelong commitment continues to be balancing my views and decisions regarding the sometimes conflicting or at least competing struggles for economic, environmental, and social justice while also being sensitive to our host culture and all our local cultures. With this in mind and after having looked carefully at this item, I do support including this proposal in the 2013 HSAC Legislative Package. I believe the Legislature intended this to be a meaningful solar water mandate that would move our State towards energy sustainability and away from our dependence on fossil fuels. I fully support asking the Legislature to relook at this bill and to consider tightening the variances so the number of variances are the exception and rare. I am satisfied that the end user homeowner occupant has the ability to apply for and to receive a variance and so there is that

personal choice for the individual. However, I have been thinking along the lines and agree with the prior comments of Councilmember Rapozo and Chair Furfaro with regards to looking at incentives, such as real property tax credits, so that those individuals that do have a choice will actually choose solar water heating over other alternatives. Going forward, I will be analyzing with staff help the kind of real property credit incentive that would work to assist the end user homeowner occupants with covering over time the difference of upfront installation cost, so that more and more of them will choose solar water heaters even if it is initially more expensive to install. Finally, I am committed to helping create a property assessed clean energy or pace County financing system whereby all our end user homeowner occupants, including existing, not just those with new construction, can more easily afford putting on solar water heaters and paying for it over time through their real property tax bills.

Mr. Bynum: I am in support of this resolution or to add at HSAC an encouragement to the Legislature to change... to really close a loophole in legislation they put before. I want to put this in context. The Legislature...we had incentives – financial incentives to install solar water heating and they were helpful and they continue to be helpful. As we heard today that KIUC offers that for retrofits but the Legislature's intent was very clear, this incentive is not taking us where we need to go. We all know what the importance is I will not argue the importance of having energy sustainability for our planet and for our community and we know that conservation is the biggest bang for the buck. This is the easiest conservation measure and so the Legislature's intent was to move from incentive to mandate. It is a mandate that you install solar water heating for new construction. There was a variance at the beginning for places where that was not practical because of the solar resources that were available and there was a lobby by the gas company to put in an additional on demand water heating which was not in the initial bill. The Legislature eventually agreed to that variance and they agreed to that variance when that variance was being applied for and received by the end user or the people who actually have to pay the bill. That was clearly their intent; it says that in the first part of the bill as clear as it can be and then it became DBEDT to administer those variances. We heard testimony from them last time that the way... the body of the language of the bill that that intent was not being realized particularly on Kaua'i. In O'ahu where they do a lot more spec building, the developers have not tried to circumvent this, they have only five percent variances, roughly. On Kaua'i, it is over sixty percent and we do not have people that do big developments but we have a lot of people who do smaller scale developments both for purchase and for rental. It clearly was the intent of the Legislature if this is for purchase or for rental, you do solar water heating because you cannot determine what the bill payers is going to be in those circumstances. This was moving from incentive to mandate and there was a lot of discussion today about incentive, and I will very much support incentives for retrofitting homes, but I will not support incentives for new construction. We took it to the next step and that is the purpose of this bill. It is to clarify the language to close what is clearly a loophole. This is

not a decision that the Council is making; it is encouraging the Legislature to do it on a Statewide basis.

We heard a lot of talk about freedom today and we live in the most free society on the planet and we all want to guard that freedom, but as Mr. Evslin said here today that government is a lot about seeking that balance. The only time in my opinion we should impose restrictions on individual liberty is when there is a compelling public interest. In this instance it is very clear that there is a compelling public interest and we already do that. We have national mileage standards for cars that are increasing because we know that it is compelling public interest to reduce the consumption of fossil fuels. We have those requirements in appliances, and then another step in that is knowledge, so consumers can make good choices. We have building codes that require energy efficiency because... and it does increase the cost to the home building to begin with and those are applied across the Country. This is very much a building code kind of effort that the Legislature did. So, incentives are great but if we were to incentivize new construction when we have a mandate, an incentive when we give tax credits, we are saying to some tax payers who already have solar heating, you are subsidizing the new installation. Well if it is subsidizing the new retrofit that decreases our dependence on fossil fuel, it benefits those people who are making that contribution. I do not want to incentivize developers to lower their cost... our tax payers lowering developers cost when the Legislature has already clearly said, this is the next logical step in bringing energy efficiency into homes. This to me is a very easy decision in terms of saying... and there was no question that there was a loophole, there is no question that it has impacted Hawai'i more than anywhere else, and so it is the right thing to do. It does not mean it is going to happen because we have to convince the Legislature but a strong message from the Council of Kaua'i and from the other Counties will help make that more likely. Thank you.

Mr. Chang: We had a very spirited discussion last week and as Councilmember Kualii was saying he was able to watch the Council Meeting although he was ill last week, I had an opportunity to check and review the Council Meeting too, and I guess that is the benefit of us being able to watch and do the due diligence, and I had an opportunity to chat with various people. Councilmember Yukimura, thank you for these amendments. I have to say when you feel something is right and you want to make sure there are choices, I believe that as the Chair of Economic Development and Renewable Energy Strategies Committee, it was our goal to set a standard by 2013 being less dependent on fossil fuel. I just want to say that our last person that testified, Dale Alexander, he had to leave and I did not have a chance to chat with him but during the break I did I have been looking at active neighborhoods that have been building and one of the closer ones to myself and within the Lihu'e area is the Pikake Subdivision within the Puakea golf course area itself. As I drove around, that is pretty much one of the most active but the newer developments that we have in the greater Lihu'e area on Kaua'i but I noticed it was a split as far as a fifty/fifty was concerned as to how many people had solar or

how many people opted not to use solar, and when we talk about choices and we mentioned... I did not realize that a lot of people are building or may have built their homes and waiting just that short two (2) years to turn and sell the home. But according to Dale Alexander, at this point people will really not have a choice because the way that home was built or retrofitted, it is nearly going to be, as you put it and I do not want to quote words that he is not here to verify, but it is almost nearly impossible when you build a home that you are going to retrofit it from the beginning and you want to try to put this... you try to fit it but it is no longer going to work in the home because the infrastructure is not built the way that it should. At that particular point if somebody did opted they almost would not have that option. I am happy to say we can move this along to the Legislature and put it into their hands, and moving on forward, I look forward to working with the Chair as far as other incentives down the line for our buy/owner occupancy on Kaua'i.

Mr. Rapozo: Let me just start off by saying I appreciate the testimony that came up today and I really appreciate the amendment that was submitted by Councilmember Yukimura. I think it addresses my concern really about the choice. From last meeting – last week where it was pretty much unknown who the occupant may be because you never know if you are going to rent out the home, as Councilmember Nakamura brought up on several occasions, the owner may not have known and how do you even enforce something like that? How do you expect the owner of the property at that point, the owner does not have a choice and with your amendment you allow for that variance to be applied for by the buyer/owner. I think that clarifies a lot. That satisfies my choice, the freedom of choice because now the buyer or the owner of the home will have the ability to apply for the variance and that was my concern over the last bill which in many cases the person would be unknown at the time of construction. I do want to make a few comments as far as the discussion that we had today. I think comments were made about greed and profit making, that in fact Kaua'i's high rate of variances and the fact that if Councilmembers could not support this it was because of greed and profit making. Number one (1) I take offense to that, and number two (2), I think Kaua'i is unique from Maui, the Big Island and O'ahu because they have not gone through two (2) hurricanes. I think that is one... no one has talked about, I have been through them. I can tell you, I swore to myself, I will never have electricity because I need my hot water, I need my cooking ability after in fact the power goes down. There are a lot of people in this island that have lived through hurricanes who are saying, "I am keeping my gas, and if they buy a new home, they are going to gas." So it is not greed and profit making in those cases, it is not this evil doing that has been made today. It is simply a matter of choice and until you have been through two (2) hurricanes and until you got your home devastated and cannot do your basic needs like having a hot bath or be able to cook, I think those people deserve a little bit more credit than being greedy or into making profit.

For Mr. Evslin, I know you mentioned that the lobby group are not equal. Well I will just say in my mind they are because I do not waver because they put money in my campaign account, that has no impact to me, it really does not. They provide testimony, the other side provides testimony, and I analyze the testimony based on the merit of the testimony, and I will tell you that your testimony was quite compelling today, as was everyone. But it is not about because they give five times more in the lobby effort, to me on this body on Council is meaningless, it does not bother me at all. To me it is our job to do what we believe is right for the County and what we believe is right for the State. I take a lot of pride that I am the State President of the Hawai'i State Association of Counties, but the function of HSAC is really to do what is right for the State and not an individual County. The amendments to this bill addresses the entire State, so HSAC is the appropriate venue to have the amendment heard and we will see what the outcome is next month when it gets decided on. I will be supporting the bill again. Councilmember Yukimura, thank you for the consideration of addressing our concerns because I believe with that simple change from occupant to buy/owner provides the choice... the freedom of choice for the person that owns that house and wants to do what they want to do with their property.

Ms. Yukimura: I want to first say as a comment to what Councilmember Rapozo said, I do believe that at the County level we are less vulnerable to the lobbying pressures and I am so glad for that. It is true I think at State and Federal levels that the lobbies and the moneys do have an impact that is not always in line with the common good. I think we are coming on a scenario that is best for after hurricanes and that is solar with a gas backup is really I think a wonderful choice after hurricanes because if your solar is still working, you do not need that electric grid to be dependent on, and if your solar is not working, you have another source. That is good but in the same respect to be dependent on solar rather than on gas that has to come from very far under some difficult circumstances is also better. I think two (2) things came out of the testimony that I wanted to highlight. One (1) is that this is urgent. It is hard to remember so short a time ago in 2008 how energy prices were so high and really eating into our personal incomes, our business incomes, and our economy. This is going to happen again and it is going to happen in greater severity either one (1) year from now or five (5) or ten (10) years. When that happens, we cannot change our minds and then put on solar, it is the systems that we are developing and adopting now so that when that time comes, our families will be independent of oil and therefore better able to survive and thrive. That is what I feel this is about because the energy situation ninety percent dependent on outside fossil fuels right now is really critical and we do not want to wait to find out how critical it is to take action. We want to be proactive and take action now. The common good – Walt Barnes says that “five percent of all electricity” but it is actually eight to ten percent of all our energy that we use right now goes to heat water and if we can take care of that with solar water heating and then we take care of the rest of that ninety percent in other ways, we will not have to build another power plant and that will save all of us a huge

amount of money, as well as save our environment. This is a small step but that is the only way we are going to get to energy sustainability with many small steps added up. If we can pass this today and then eventually get the Legislature to make this a Statewide law, we will be taking in my mind a big small step to energy sustainability.

Ms. Nakamura: I also would like to thank Councilmember Yukimura for addressing my concern that was raised last week about the end user. I think the amendment that you proposed addresses my concern. I want to share and I will be supporting this but I do have some reservations and I want to express some of those reservations. One (1) is that this has been around since 2010 and I really do not think this County or anyone here has actually good data to make arguments one way or the other. Nobody has talked to the two hundred and ten people who has sought these variances or their representatives to find out why they went with something other than solar water heating and went with tankless gas. I think that is a small step that should be taken to understand. Part of that understanding is sitting down and talking story, there is only less than ten (10) people on this island requesting these variances – representatives that represent various landowners. By talking story we can understand some of the reasons behind the issue here on why they are seeking these variances. Just in a short conversation when I stepped out of here, I talked to one of the architects who has been issuing this variance and I have learned that a lot of these are box houses, people building their first homes, and in order to get their building, their financing, they need to get a building permit. So what they are doing is they are putting in something that is affordable because they are on the margin, their incomes are not that high, and they are stubbing it out for solar water heating, but they just cannot do it at this first phase. They need to get into the home, get their financing in place, and that might be a phase two (2), that is all they can afford. By sitting down and talking to these individuals, maybe we can really address the issue which is the affordable financing for this. Until we sit down and have those conversations rather than demonize these people as all being rich developers trying to make a profit, let us understand what those concerns are. I am very happy to bring those two (2) sides together to have conversations because if it does not pass at the Legislature, we are stuck with this problem on Kaua'i. Let us begin those discussions and I am very open to bringing some parties together to have that, just so we can learn and understand. Finally, I want to say that I think low interest loans, the property assessed clean energy financing that started off in Berkley that may have had some issues is something we really should be tracking and pursuing as a County by policy. Thank you again for those amendments.

Mr. Bynum: Just briefly and I do appreciate the comments that Councilmember Yukimura just made. I know I have talked to about a dozen people and that is not scientific data done for these variances and they are for a variety of reasons. Some of them makes sense and some of them are profit but it is not one thing. Just a technical thing – my first solar system did not need any electricity

when the tank is on the roof, it works purely a hundred percent without electricity, and then other systems have very small photovoltaic to run the pump because it is a really low yield thing, it is not a big expense, so there are many solar systems that continue to heat water even when the electricity is out for six weeks. That is all I wanted to say.

Ms. Yukimura: I want to thank Councilmember Nakamura and Councilmember Rapozo for bringing up the issue that allowed me to make the amendment. I also want to say that I have talked story with some of the architects and it is sometimes that they just have different interests than the consumer and sometimes different ignorance points in terms of what it really takes. There is a lack of information but the thing about this bill is that it does not depend on the ad hoc education that everybody get an education. It has educated the policy makers so we are saying this is what we need and then in the case of the block houses with owners who cannot afford and that was the issue that Mr. Sakoda raised two (2) years ago when we brought... last year when we brought it up. That is where this variance allowed, it allows people to make application if they want to have a (inaudible) but also what Mr. Alexander said is, people will do away with an accessory whether it is those fans or the granite top because they can put that in later with the money they saved from the solar water heater that they put in. That is the only accessory that makes money for you in the long term. Those are the kinds of things that make solar water heating actually such a good option. There are ways to get around that problem of unaffordability and the Chair mentioned that in terms of including it in a mortgage, etc., but the thing about that accessory is that it starts saving money unlike any other accessory.

Chair Furfaro: Since we are all thanking each other, I will start by thanking myself for voting yes the last time which created the Special Meeting. I think we are at a very good start, this looks like it is going to be a unanimous vote. I wanted to clarify a couple of things so that the public realizes that this is about... the reason we had this Special Meeting is we are coming upon HSAC and they need some deadlines for their particular Legislative Package. I also want to say that this is about a solar mandate that is going to the Legislative body for their choice thus again trying to fit into the State energy plan which has some critical dates on it in the year 2030. I mentioned the fact that I might be introducing something in the Economic Development Committee of which Councilmember Chang is Chair because perhaps the way we get away from the mandate is we offer incentives for choice for primary homeowners who have homes under four hundred thousand dollars. A couple other things we did and I think Councilmember Nakamura brought up a really good point, I went to Building to look at two hundred and sixty variances and our Building Department does not do a very good job at documenting what the purposes of the variances was. You could not even find out who is intending to be a owner/occupant, let alone if they are going to be in that house for long term and so forth. It is better that we have a discussion to get some good data because data is definitely missing. I also think I heard and will be sending over

correspondence over to KIUC as they seemed to have a plan for credits for retrofitting and I think we need to know a little bit more about what they are doing there. As I pointed out in my short presentation, you can roll this in to the financing package and what we are saving in total household expenses which become part of your mortgage would then show the bank that you got a little bit more leverage there with household expenses. Trying to get household expenses for primary homeowners in the right place is extremely important and we are going to have another battle coming up with the cost of a water meter to build a new home for owner/occupant. Those things add to the cost of building a home too. I am in support of this piece for the Legislative solar mandate and we will see where it goes, but I think we have an opportunity to look at the problem with better data and our own kind of incentives as it develops, and we will have some information to share with you from KIUC.

The motion to approve C 2012-348 as amended, was then put, and carried by the following vote:

FOR APPROVAL: Bynum, Chang, Kualii, Nakamura, Rapozo,	
Yukimura, Furfaro	TOTAL – 7,
AGAINST APPROVAL: None	TOTAL – 0,
EXCUSED & NOT VOTING: None	TOTAL – 0,
RECUSED & NOT VOTING: None	TOTAL – 0.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 11:22 a.m.

Respectfully submitted,

EDUARDO TOPENIO
Assistant to the County Clerk

\ds

(August 29, 2012)
FLOOR AMENDMENT

Proposed Bill for An Act Relating to Energy Resources

INTRODUCED BY: JoAnn A. Yukimura

Amend Proposed Bill for an Act Relating to Energy Resources in its entirety as follows:

JUSTIFICATION SHEET

PROPOSER: Hawai'i State Association of Counties (HSAC)

TITLE: Relating to Energy Resources

PURPOSE: To amend the State law (Act 204) that requires solar water heating on all new single-family and duplex homes. The amendment would require that the end-owner of a new single-family or duplex home be the applicant for the variance allowing on-demand gas in lieu of a solar water heater; otherwise, a solar water heater will be required. This is a consumer protection measure as well as an energy efficiency and conservation measure.

MEANS: Amend Section 196-6.5, Hawai'i Revised Statutes

JUSTIFICATION: Amendments are necessary to fulfill the intention of the Legislature, as expressed in Act 155, the Clean Energy Initiative, that variances to the requirement of a solar water heater would be "rarely" granted and that the "gas variance" would be considered only if requested by the ultimate occupant of a new home who would be the ultimate payer of energy consumption costs. Where there is no end occupant at the time of building, the "gas variance" shall not be available. Other variances, however, will remain. For example, if a home is being built where there is little sun and the applicant can show that a solar water heater is not feasible, it will not be required.

__B. NO. __

A BILL FOR AN ACT

RELATING TO ENERGY RESOURCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Purpose and Findings. The legislature finds that
2 independence from fossil fuels is critical for the security and wellbeing of Hawaii's
3 residents and for the sustainability and vitality of Hawaii's economy. Rising oil
4 costs and increased dependence on foreign oil continue to place Hawaii's families
5 and businesses in a vulnerable position. Continued consumption of fossil fuel will
6 also worsen global warming, which in turn could mean increasing frequency and
7 intensity of storms and rising sea levels in Hawaii. This will cause significant and
8 costly impacts to our island communities as well as to the larger world.

9 The legislature finds that the installation of solar water heaters on new
10 single-family and duplex homes is one of the most cost-effective and efficient ways
11 of moving Hawaii's families off of fossil fuels. A conventional electric water tank
12 accounts for thirty to thirty-five percent of a household's electric bill. It is estimated
13 that by relying on the sun for ninety percent of its hot water demand, a family could
14 save enough money to pay for the solar system in three to five years. After the
15 system is paid off, the heating of water is essentially free. In addition to federal tax

____.B. NO. _____

1 credits, when the cost of a solar water heater is included in the cost of a mortgage
2 there could also be the added value of tax deductions.

3 For the reasons above, the legislature in 2008 passed Act 204 requiring solar
4 water heaters on new single-family homes. However the legislature finds that
5 Act 204 allows variances from this requirement under vague and unjustified
6 circumstances such that the purpose of Act 204 is being thwarted in many instances
7 by the variance that allows tankless gas. Therefore, the legislature finds it is
8 necessary to modify the wording of the law and clarify that the variance allowing
9 tankless gas shall require application by an ultimate occupant of the dwelling unit
10 and only such occupant. If the occupant is not available, then the variance
11 application shall not be accepted for processing and said variance shall not be
12 available.

13 SECTION 2. Section 196-6.5, Hawaii Revised Statutes, is amended to read
14 as follows:

15 **"§196-6.5 Solar water heater system required for new single-family**
16 **residential construction.**

17 (a) On or after January 1, 2010, no building permit shall be issued for a
18 new single-family or duplex dwelling that does not include a solar water heater
19 system that meets the standards established pursuant to section 269-44, unless the
20 coordinator approves a variance.

____.B. NO. _____

(b) ~~[A variance application]~~ Applications for the following variances shall only be accepted if submitted by an architect or mechanical engineer licensed under chapter 464, who attests that:

(1) Installation is impracticable due to poor solar resource;

(2) Installation is cost-prohibitive based upon a life cycle cost-benefit analysis that incorporates the average residential utility bill and the cost of the new solar water heater system with a life cycle that does not exceed fifteen years; or

(3) A renewable energy technology system, as defined in section 235-12.5, is substituted for use as the primary energy source for heating water; ~~[or]~~

(c) Applications for the following gas variance shall be accepted on the following basis only if the variance applicant is the party who will ultimately control the energy consumption cost, and as part of the application, the applicant signs an affidavit that the applicant will be the buyer-owner of the new house and that the applicant has read a flyer issued by the State of Hawaii Department of Business, Economic Development and Tourism (DBEDT) showing the life cycle cost comparisons of a solar water heater and tankless gas water heater of equivalent capacities.

~~[(4)]~~ (1) A demand water heater device approved by Underwriters Laboratories, Inc., is installed; provided that at least one other

_____.B. NO. _____

1 gas appliance is installed in the dwelling. For the purposes of
2 this paragraph, 'demand water heater' means a gas-tankless
3 instantaneous water heater that provides hot water only as it is
4 needed.

5 ~~[(b)]~~ (d) A request for a variance shall be submitted to the coordinator on an
6 application prescribed by the coordinator and shall include a description of the
7 location of the property and justification for the approval of a variance using the
8 criteria established in subsection (a). A variance shall be deemed approved if not
9 denied within thirty working days after receipt of the variance application. The
10 coordinator shall publicize:

11 (1) All applications for a variance within seven days after receipt of
12 the variance application; and

13 (2) The disposition of all applications for a variance within seven
14 days of the determination of the variance application.

15 ~~[(e)]~~ (e) The director of business, economic development, and tourism may
16 adopt rules pursuant to chapter 91 to impose and collect fees to cover the costs of
17 administering variances under this section. The fees, if any, shall be deposited into
18 the energy security special fund established under section 201-12.8.

19 ~~[(d)]~~ (f) Nothing in this section shall preclude any county from establishing
20 procedures and standards required to implement this section.

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1 [~~e~~] (g) Nothing in this section shall preclude participation in any utility
2 demand-side management program or public benefits fee program under part VII of
3 chapter 269.”

4 SECTION 3. Statutory material to be repealed is bracketed and stricken.
5 New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.

7

8 INTRODUCED BY:_____

